

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
MACON DIVISION**

ERIC DRAKE,

Petitioner

v.

UNITED STATES OF AMERICA,

Respondent

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5:04-CR-24 (WDO)

ORDER

This matter is before the Court on Petitioner's motion for a free copy of his file so that he may file a habeas corpus action. Petitioner has previously been notified that he must pay 10 cents per page for anything he wishes to have copied and mailed to him. Because Petitioner has not yet filed a habeas action, and has not had a judge determine whether the same is frivolous or with arguable merit, his request for a free transcript is DENIED. See Skinner v. United States, 434 F.2d 1036 (5th Cir. 1970) ("where a federal prisoner has not attempted to file a petition collaterally attacking his conviction, he is not entitled to obtain copies of court records at the government's expense under 28 U.S.C. 2255 to search the record for possible error"); Hansen v. United States, 956 F.2d 245, 248 (11th Cir. 1992) ("a prisoner is entitled to access to the court files only after he has made a showing that such files are necessary to the resolution of an issue or issues he has presented in a non-frivolous pending collateral proceeding").

SO ORDERED this 7th day of September, 2005.

**S/ Wilbur D. Owens, Jr.
WILBUR D. OWENS, JR.
UNITED STATES DISTRICT JUDGE**